

HOUSE BILL NO. 637

INTRODUCED BY C. KAUFMANN, CALLAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN OFFICE OF RESTORATIVE JUSTICE IN THE DEPARTMENT OF JUSTICE TO PROMOTE THE USE OF RESTORATIVE JUSTICE AND TO PROVIDE TECHNICAL ASSISTANCE AND GRANTS FOR RESTORATIVE JUSTICE PROGRAMS; PROVIDING FOR RESTORATIVE JUSTICE PRINCIPLES IN THE CORRECTIONAL AND SENTENCING POLICY; CREATING A FUND IN THE STATE SPECIAL REVENUE ACCOUNT; AUTHORIZING THE BOARD OF CRIME CONTROL TO MAKE GRANTS FROM THE FUND; PROVIDING AN APPROPRIATION; AMENDING SECTION 46-18-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Intent. The legislature recognizes that incarcerating offenders carries an extremely high cost and may not be the most effective strategy for restoring victims, reforming offenders, and reducing recidivism. It is the intent of [section 2] to divert appropriate offenders who are at low risk for violence from incarceration to community programs based on restorative justice and to divert funds from the department of corrections to the department of justice to support an office of restorative justice and to support community programs based on restorative justice.

NEW SECTION. Section 2. Office of restorative justice. (1) There is an office of restorative justice in the department of justice.

(2) The purposes of the office of restorative justice are to:

(a) promote the use of restorative justice throughout the state by balancing the needs of victims, communities, and juvenile and adult offenders;

(b) provide technical assistance to jurisdictions and organizations interested in implementing the principles of restorative justice; and

(c) bring additional resources to Montana communities for restorative justice programs.

(3) (a) For the purposes of [sections 1 and 2], the term "restorative justice" means the philosophy of promoting and supporting ~~the use of community-based, including faith-based,~~ practices, policies, and

1 programs that focus on repairing the harm of crime, strengthening communities around the state,
2 emphasizing accountability, and providing alternatives to incarceration for offenders who are at low risk
3 for violence.

4 (b) Restorative justice is intended to improve the ability of the justice system to meet the needs
5 of victims, to encourage community and victim participation in the criminal justice process, to reduce crime
6 and increase the public sense of safety, to hold offenders accountable, and to provide rehabilitation and
7 reintegration of offenders back into the community.

8 (c) Restorative justice programs include but are not limited to victim-offender meetings, family
9 group conferencing, sentencing circles, use of victim and community impact statements, restitution
10 programs, constructive community service, victim awareness education, victim empathy programs, school
11 expulsion alternatives, peer mediation, diversion programs, and community panels.

12 (4) Efforts of the office of restorative justice may include but are not limited to:

13 (a) providing educational programs on the philosophical framework of restorative justice;

14 (b) providing technical assistance to schools, law enforcement, youth courts, probation and parole
15 officers, juvenile corrections programs, and prisons in designing and implementing applications of
16 restorative justice;

17 (c) housing a repository for resources and information to coordinate expertise in restorative justice;

18 (d) serving as a liaison between victims, the judiciary, and state agencies, such as the department
19 of justice and the department of corrections, that are involved in criminal and juvenile justice efforts
20 including victim compensation programs;

21 (e) providing information to schools, local governments, law enforcement, state agencies, the
22 judiciary, and the legislature regarding systemic changes that may be necessary to enhance further
23 development of restorative justice in the state; and

24 (f) securing additional resources for restorative justice programs through a grant program
25 administered by the board of crime control, which may be coordinated with other appropriate grant
26 programs of agencies, and providing sustained funding for successful community programs.

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28 **NEW SECTION. SECTION 3. RESTORATIVE JUSTICE FUND CREATED -- SOURCE OF FUNDING -- USE OF FUND.**

29 **(1) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND ESTABLISHED BY 17-2-102 TO BE KNOWN AS THE**
30 **RESTORATIVE JUSTICE FUND.**

1 (2) THERE MUST BE DEPOSITED IN THE ACCOUNT:

2 (A) MONEY RECEIVED FROM LEGISLATIVE ALLOCATIONS;

3 (B) A TRANSFER OF MONEY FROM A ~~FEDERAL, FEDERAL,~~ STATE,, OR LOCAL AGENCY FOR THE PURPOSES OF
4 [SECTION 2]; AND

5 (C) A GIFT, DONATION, GRANT, LEGACY, BEQUEST, OR DEVISE MADE FOR THE PURPOSES OF [SECTION 2].

6 (3) THE FUND MAY BE USED ONLY TO PROVIDE GRANTS TO COMMUNITIES FOR RESTORATIVE JUSTICE PROGRAMS
7 AS PROVIDED IN [SECTION 2] TO COMMUNITY-BASED, INCLUDING FAITH-BASED, ORGANIZATIONS.

8
9 **SECTION 4. SECTION 46-18-101, MCA, IS AMENDED TO READ:**

10 **"46-18-101. Correctional and sentencing policy.** (1) It is the purpose of this section to establish
11 the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime are
12 drawn to implement the policy established by this section.

13 (2) The correctional and sentencing policy of the state of Montana is to:

14 (a) punish each offender commensurate with the nature and degree of harm caused by the offense
15 and to hold an offender accountable;

16 (b) protect the public, reduce crime, and increase the public sense of safety by incarcerating
17 violent offenders and serious repeat offenders;

18 (c) provide restitution, reparation, and restoration to the victim of the offense; and

19 (d) encourage and provide opportunities for the offender's self-improvement to provide
20 rehabilitation and reintegration of offenders back into the community.

21 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
22 principles:

23 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

24 (b) Sentences should be commensurate with the punishment imposed on other persons committing
25 the same offenses.

26 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
27 national origin, or social or economic status.

28 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
29 circumstances.

30 (e) Sentencing practices must include punishing violent and serious repeat felony offenders with

1 incarceration.

2 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
3 nonviolent felony offenders who do not have serious criminal records.

4 (g) Sentencing and correctional practices must emphasize that the offender is responsible for
5 obeying the law and must hold the offender accountable for the offender's actions.

6 (h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence
7 must require an offender who is financially able to do so to pay restitution, costs as provided in
8 46-18-232, costs of court-appointed counsel as provided in 46-8-113, and, if the offender is a sex
9 offender, costs of any chemical treatment.

10 (i) Sentencing practices should promote and support the use of community-based, including
11 faith-based, practices, policies, and programs that focus on repairing the harm of crime and strengthening
12 communities around the state RESTORATIVE JUSTICE PRINCIPLES."

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14 NEW SECTION. Section 5. Appropriation. ~~(1) There is appropriated from the general fund to the~~
15 ~~department of justice for the purposes of hiring one full-time employee for administering the office of~~
16 ~~restorative justice and for accomplishing the purposes of [this act], the following amounts:~~

17 ~~_____ FY 2002 _____ \$50,000~~

18 ~~_____ FY 2003 _____ 50,000~~

19 ~~_____ (2) There is appropriated UP TO \$400,000 \$100,000 \$400,000 \$200,000 from the general fund~~
20 ~~STATE SPECIAL REVENUE ACCOUNT ESTABLISHED IN [SECTION 3] to the board of crime control for the biennium~~
21 ~~beginning July 1, 2001, for providing grants to communities for restorative justice programs.~~

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23 NEW SECTION. Section 6. Codification instruction. [Sections 1 ~~and 2~~ THROUGH 3] are intended
24 to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15,
25 part 20, apply to [sections 1 ~~and 2~~ THROUGH 3].

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27 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2001.

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